



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,931	01/16/2001	Bi Le-Khac	01-2532B	4319

24114 7590 11/06/2002
LYONDELL CHEMICAL COMPANY
3801 WEST CHESTER PIKE
NEWTOWN SQUARE, PA 19073

EXAMINER

ZALUKAEVA, TATYANA

ART UNIT PAPER NUMBER

1713

DATE MAILED: 11/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

1-P

Advisory Action	Application No.	Applicant(s)
	09/760,931	BI LE-KHAC ET AL
	Examiner Tatyana Zalukaeva	Art Unit 1713

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 15 October 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) The period for reply expires _____ months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. The proposed amendment(s) will not be entered because:
 - (a) they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) they raise the issue of new matter (see Note below);
 - (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. Applicant's reply has overcome the following rejection(s): _____.
4. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

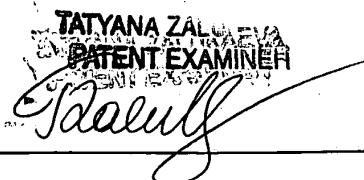
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-5, 7, 9, 10, 12, 13.

Claim(s) withdrawn from consideration: _____.

8. The proposed drawing correction filed on _____ is a) approved or b) disapproved by the Examiner.
9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. Other: _____

TATYANA ZALUKAEVA
PATENT EXAMINER


Tatyana Zalukaeva
Examiner
Art Unit: 1713

Continuation of 5. does NOT place the application in condition for allowance because: of the reasons stated in the Final rejection. Examiner further notes that claims 1-5, 7, 9, 10, 12 and 13 were not rejected under 103(a), but to the contrary was rejected under 35 USC 102 (a/e)).

Chamberlain (U.S. 5,605,991) or Hoxmeier (U.S. 5,773,521) or Watson et al (U.S. 4,466,904). (see MPEP 2131.01. II, which allows 102 rejection by multiple references "Extra reference or other evidence can be used to show the meaning of a term used in the Primary reference").

With regard to using a chain transfer agent in a polymerization step, Nagano teaches that it is desirable to add molecular oxygen or air in order to restrain polymerization of acrylic ester and cyclic ether compound (column 12, lines 24-29), in other words to regulate the molecular weight of the chain. Further Nagano teaches that inhibitors of polymerization or combination of those, such as phenothiazine (readable on the instantly claimed chain transfer agent) are used to restrain polymerization or such inhibitors in combination with molecular oxygen can be used. (column 12, lines 30-44).

Chamberlain (U.S. 5,605,991): "At the conclusion of the polymerization, polyme can be recovered using any conventional technique. For instance, it can be simply terminated through the addition of a chain transfer agent such as carbon monoxide, oxygen, alcohol, or other known terminating agents (see column 3, lines 63-67).

Hoxmeier (U.S. 5,773,521): This means it (polymerization) can simply be terminated through the addition of a chain transfer agent such as carbon monoxide, oxygen, alcohol or other known terminating agents (see column 5, lines 44-50).

Therefore, since oxygen is present in Nagano's process, it is capable of producing chain transfer function, and even Nagano teaches that oxygen aids in regulating molecular weight.

Compounds of identical chemical composition cannot have mutually exclusive properties. A chemical compound and its properties are inseparable. Therefore if the prior art teaches the identical chemical structure, the properties and characteristics applicant discloses and/or claims are necessarily present. In re Spada, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990).

A reference anticipates a claim, if it discloses the claimed invention such that a skilled artisan could take this teaching in combination with his own knowledge of the particular art and be in possession of the invention, as per In re Graves, 36 USPQ 2d 1697 (Fed. Cir. 1995), or In re Sasse, 207 USPQ 107 (CCPA 1980).

And furthermore, the disclosure in a reference must show the claimed elements arranged as in the claim, but need not be in identical words as used in the claim to be anticipatory. In re Bond, 15 USPQ 2d 1566 (Fed. Cir. 1990).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tatyana Zalukaeva whose telephone number is (703) 308-8819. The examiner can normally be reached on 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (703) 308-2450. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

Tatyana Zalukaeva

ExaminerArt Unit 1713

October 31, 2002


TATYANA ZALU
PATENT EXAMINER